



United States Government

NATIONAL LABOR RELATIONS BOARD

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November 7, 2017

Michael S. Fitzsimmons
The Boeing Company
P.O. Box 3707, MC 11-XT
Seattle, WA 98124

Re: The Boeing Company
Case 19-CA-089374

Dear Mr. Fitzsimmons:

This letter acknowledges receipt of Respondent The Boeing Company's Motion to Seek Remand and Reconsider, filed on October 5, 2017, in the above-referenced case.

As you know, this case is currently pending in the United States Court of Appeals for the Ninth Circuit on the petition of The Boeing Company to review, and the cross-application of the National Labor Relations Board to enforce, the Board's August 27, 2015 Decision and Order (362 NLRB No. 195). Section 10(d) of the National Labor Relations Act ("the Act") provides that "the Board may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it." 29 U.S.C. § 160(d). However, Section 10(e) of the Act makes clear that such power terminates "[u]pon the filing of the record with [the court]." 29 U.S.C. § 160(e); *accord Ford Motor Co. v. NLRB*, 305 U.S. 364, 368 (1939) ("The authority conferred upon the Board by Section 10(d) . . . end[s] with the filing in court of the transcript of record."). From that point forward, "the jurisdiction of the court [is] exclusive." 29 U.S.C. § 160(e); *see also Kronenberger v. NLRB*, 496 F.2d 18, 19 (7th Cir. 1974) (the court's "jurisdiction . . . [is] concurrent with that of the Board until the transcript of record [is] filed").

Here, the administrative record in the above-referenced case was filed with the Ninth Circuit over two years ago, on October 28, 2015. Under the clear terms of Section 10(e) of the Act, the Board ceased to have jurisdiction over the case at that point. The Board accordingly has no jurisdiction to entertain your motion, and therefore it will not be forwarded to the Board for consideration.

Very truly yours,

/s/ Roxanne L. Rothschild
Deputy Executive Secretary

cc: Parties
Region